

LFC Requester: \_\_\_\_\_

**AGENCY BILL ANALYSIS  
2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)  
(Analysis must be uploaded as a PDF)**

**SECTION I: GENERAL INFORMATION**

*{Indicate if the analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply:  
**Original**        **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_    **Substitute**    \_\_\_\_\_

**Date Prepared**    2/18/2025  
**Bill Number:**    HOUSE BILL 139

**Sponsor:**    Rep. Cates  
**Short**    IPRA CHANGES  
**Title:**    \_\_\_\_\_

**Agency Name and Code**    DFA-341  
**Number:**    \_\_\_\_\_  
**Person Writing**    George Hypolite  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
16.5	66	66		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	100			100	N	

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

House Bill 139 (HB139) aims to amend the Inspection of Public Records Act in New Mexico. HB 139 introduces new definitions, procedures, and exemptions related to public records. Here is a detailed summary of the bill:

- **Definitions:**
  - HB139 defines various terms such as "access device," "adversarial administrative proceedings," "archival records," "attorney work product," "broad and burdensome," "correctional facility," "county canvassing board," "critical infrastructure," "current records," "custodian," "cybersecurity," "educational institution," "employee personal information," "file format," "good faith," "human services," "information technology systems," "inspect," "insurer," "investigatory work product," "law enforcement agency," "law enforcement records," "library," "medical information," "person," "private place," "protected personal identifier information," "public business," "public body," "public funds," "public records," "public social services agency," "reasonable denial," "reasonable particularity," "state canvassing board," "state commission of public records," "state records administrator," "reasonable fee," "security system plan," "trade secret," "undercover law enforcement officer," and "utility services."
- **Records Custodian:** Public bodies must designate at least one custodian of public records to handle requests, provide access, and post notices about public records inspection rights and procedures.
- **Requesting Records:** Requests must be written and include the requester's contact information. Anonymous requests are not allowed. The custodian must respond within 15 days for current records and 60 days for archival or audio/visual records.
- **Electronic Records:** Public bodies must provide reasonable access to electronic records and ensure confidential records are not disclosed. They must not enter contracts that impair public access to records.
- **Wrong Custodian:** If a request is sent to the wrong custodian, it must be forwarded to the correct one, and the requester must be notified.

- **Inspection Procedure:** Custodians must separate exempt and non-exempt information before allowing inspection.
- **Cost Recovery:** Custodians may charge reasonable fees for copying, locating, and redacting records, with specific charge limits.
- **Creating and Maintaining Records:** Public bodies are not required to create, maintain, or provide records in a specific format not currently maintained.
- **Attorney-Client Privilege and Litigation Records:** Records containing attorney-client information and attorney work product are exempt from inspection.
- **Economic Development and Communication Provider Records:** Certain records related to business locations and communication services are exempt from inspection.
- **Education Records:** Specific educational records, including those related to internal investigations and examination materials, are exempt from inspection.
- **Election Records:** Inspection of election-related records is tolled during the period leading up to and immediately following an election.
- **Law Enforcement and Corrections Records:** Specific exemptions apply to law enforcement and corrections records, including those related to victims, juveniles, and undercover officers.
- **Infrastructure and Cybersecurity Records:** Records related to cybersecurity and critical infrastructure are exempt from inspection.
- **Library Records:** Information about library patrons and their use of library services is exempt from inspection.
- **Medical Records:** Medical records and information about medical treatment are exempt from inspection.
- **Procurement Records:** Certain records related to public contracts and real property acquisition are exempt from inspection.
- **Public Employee Records:** Personal information and internal investigation records of public employees are exempt from inspection.
- **Security Records:** Tactical response plans and security system records are exempt from inspection.
- **Social Services Records:** Records related to individual applicants or recipients of social services are exempt from inspection.
- **Utility Records:** Customer records for utility services provided by a public body are exempt from inspection.

- **Victims of Crimes Reports:** Personal information about crime victims and their families is exempt from inspection.
- **General Exceptions:** Various records, including trade secrets and strategic business plans of public hospitals, are exempt from disclosure.
- **Vexatious Requesters:** Public bodies can petition to declare a person a vexatious requester, limiting their ability to make requests for three years.
- **Enforcement:** Procedures for enforcing the Inspection of Public Records Act, including the ability to file complaints and seek remedies in court, are outlined.
- **Repeal:** §§ 14-2-1 to 14-2-1.2 and 14-2-6 to 14-2-12, NMSA 1978 are repealed.
- **Effective Date:** The provisions of this act will take effect on July 1, 2025.

## FISCAL IMPLICATIONS

Overall, while HB139 aims to improve transparency and access to public records, it could lead to increased operational costs for public bodies to comply with the new requirements and ensure secure and efficient handling of public records. The potential fiscal implications of HB139 could include several areas of impact:

- **Administrative Costs:** HB139 will require public bodies to incur costs related to designating and training records custodians, updating procedures, and ensuring compliance with the new requirements.
- **Technology and Systems:** HB139 may generate expenses for public bodies associated with updating or acquiring new technology systems to manage electronic records, ensure secure access, and handle redaction and data protection.
- **Staffing:** Additional staff or overtime may be required to handle the increased workload from processing records requests, especially those deemed "broad and burdensome."
  - The Department of Finance and Administration (DFA) averages 50 IPRA requests per month, which take an average of 4 hours to respond to.
  - This means that DFA staff spends 200 hours per month responding to IPRA requests. In total, DFA staff averages 2,400 hours per year in response to IPRA requests. As such, DFA expends 1.25 FTEs total work hours in a year (2,400 IPRA response hours / 1912 total work hours) just responding to IPRA requests.
- **Legal and Compliance Costs:** Public bodies will face additional legal costs related to enforcement actions, compliance with new regulations, and potential litigation from denied requests or disputes over exemptions articulated in HB139.
- **Fee Revenue:** HB139 allows for limited fees to be charged for copying, locating, and redacting records. This could generate some revenue to offset compliance costs, but it is unlikely to cover all additional expenses.

- DFA anticipates the need to create a system to collect payments and designate a staff member to assist with payment issues. This will cost \$100k in development and 250 work hours of staff time.
- **Public Awareness and Training:** The Attorney General's office and other public bodies will likely incur additional costs for public awareness campaigns and training programs to educate both public employees and the public about the new procedures and rights under the amended act.

## SIGNIFICANT ISSUES

HB139 introduces several significant changes and requirements that could present issues or challenges for public bodies' implementation of the bill.

- **Broad and Burdensome Requests:** HB139 defines "broad and burdensome" requests as those that take more than one hour to locate and redact information. Currently, DFA's average response time is longer than 1 hour. This definition will likely lead to legal actions over what constitutes a burdensome request.
- **Fees for Services:** HB139 allows fees to be charged \$30 per hour for locating records, \$2 per page for copying records, and \$30 per hour for redacting responsive records. However, as currently written, HB139 does not allow fees to be charged based on legal review to determine responsiveness and what, if any, exemptions apply.
  - While cost recovery for location, redacting, and copying records may help offset some costs, the bulk of expenses incurred by public bodies is based on responsiveness and exemption review.
- **Electronic Records Management:** HB139 requires public bodies to provide reasonable access to electronic records and ensure exempt or confidential records are not disclosed. This requirement could force public bodies to make significant investments in technology and training to manage electronic records securely and efficiently.
- **Implementation Timeline:** HB139's effective date is July 1, 2025, which may not provide sufficient time for all public bodies, especially those with limited resources, to implement the required changes fully.

## PERFORMANCE IMPLICATIONS

N/A.

## ADMINISTRATIVE IMPLICATIONS

HB139 will require public bodies to update their administrative processes, allocate resources for compliance, and ensure staff are adequately trained to handle the new requirements effectively. Here are the key administrative implications:

- **Fee Management:** Public bodies are authorized to charge reasonable fees for copying,

locating, and redacting records, which requires setting up a fee structure and managing payments.

- **Exemptions and Redactions:** Public bodies must create a system for identifying and separating exempt information from non-exempt information before making records available for inspection.
- **Posting Notices:** Public bodies must post notices in conspicuous locations and on their websites describing the right to inspect records, procedures for requesting records, and associated fees.
- **Training and Resources:** Implementing HB139's provisions will likely require additional staff training on the new procedures, exemptions, and compliance requirements. Public bodies may also need to invest in technology and resources to manage electronic records and ensure secure access.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A.

## **TECHNICAL ISSUES**

N/A.

## **OTHER SUBSTANTIVE ISSUES**

N/A.

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

- Agencies will not have a process to address persons who request information and become hostile for various reasons. Under the proposed revisions, agencies have a process to deal with requesters who become hostile when an agency does not provide the records being sought. Additionally, once the state commission issues an order determining that a requester is a vexatious requester, agencies can request other relief. This will deter requesters from becoming vexatious.

## **AMENDMENTS**

DFA respectfully proposes the following amendments to HB139:

- *Section 7:*
  - B. may charge a fee not exceeding thirty dollars (\$30.00) per hour per request, excluding the ~~initial~~ first quarter hour, for locating records, including electronic

records, if locating the records requires more than one hour;

C. may impose a fee not exceeding thirty dollars (\$30.00) per hour per request, excluding the initial first quarter hour, for redacting material from records

- *Section 7:*

M. The public body shall retain all fees received under this Section 7.

N. A public body may require payment of past fees and future estimated fees before beginning to process a request for information if:

(i) Fees are expected to exceed \$50; or

(ii) The requester has not paid fees for previous requests. This provision does not alter, repeal, or reduce fees established by other sections of this statute.

- *Section 24:*

G. records required to be kept confidential by any law or regulations or court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.